

AMENDED IN SENATE AUGUST 24, 2012

AMENDED IN SENATE AUGUST 23, 2012

AMENDED IN SENATE AUGUST 20, 2012

AMENDED IN SENATE AUGUST 16, 2012

AMENDED IN SENATE JULY 5, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1744

Introduced by Assembly Member Bonnie Lowenthal

February 17, 2012

An act to amend Sections 226 and 2810.5 of, *and to add Section 226.1 to*, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1744, as amended, Bonnie Lowenthal. Employee compensation: itemized statements.

Existing law requires every employer, semimonthly or at the time of each payment of wages, to furnish each employee with an accurate itemized statement in writing showing specified information. Existing law provides that a knowing and intentional violation of this provision is a misdemeanor.

This bill would additionally require, on and after July 1, 2013, that the itemized statement include, if the employer is a temporary services employer, the rate of pay for each assignment and total hours worked for each legal entity, *with a specified exception*.

Existing law requires an employer to provide each employee, at the time of hiring, with a notice that includes specified information, such as the rate and the basis, whether hourly, salary, commission, or otherwise, of the employee's wages, and to notify each employee in writing of any changes to the information set forth in the notice within 7 calendar days of the changes unless such changes are reflected on a timely wage statement or another writing, as specified.

This bill would additionally require that, if the employer is a temporary services employer, staffing agency, or professional employer organization, the notice include the name, the physical address of the main office, the mailing address if different from the physical address of the main office, and the telephone number of the legal entity for whom the employee will perform work, and any other information the Labor Commissioner deems material and necessary.

Because a willful violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would incorporate changes to Section 226 of the Labor Code proposed by SB 1255 and AB 2674, to be operative only if this bill and either or both of those bills are chaptered and became effective on or before January 1, 2013, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 226 of the Labor Code is amended to
2 read:
3 226. (a) Every employer shall, semimonthly or at the time of
4 each payment of wages, furnish each of his or her employees,
5 either as a detachable part of the check, draft, or voucher paying
6 the employee's wages, or separately when wages are paid by
7 personal check or cash, an accurate itemized statement in writing
8 showing (1) gross wages earned, (2) total hours worked by the
9 employee, except for any employee whose compensation is solely
10 based on a salary and who is exempt from payment of overtime

under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer

1 in any action alleging a violation of this subdivision. An employer
2 may designate the person to whom a request under this subdivision
3 will be made.

4 (d) This section does not apply to any employer of any person
5 employed by the owner or occupant of a residential dwelling whose
6 duties are incidental to the ownership, maintenance, or use of the
7 dwelling, including the care and supervision of children, or whose
8 duties are personal and not in the course of the trade, business,
9 profession, or occupation of the owner or occupant.

10 (e) An employee suffering injury as a result of a knowing and
11 intentional failure by an employer to comply with subdivision (a)
12 is entitled to recover the greater of all actual damages or fifty
13 dollars (\$50) for the initial pay period in which a violation occurs
14 and one hundred dollars (\$100) per employee for each violation
15 in a subsequent pay period, not exceeding an aggregate penalty of
16 four thousand dollars (\$4,000), and is entitled to an award of costs
17 and reasonable attorney's fees.

18 (f) A failure by an employer to permit a current or former
19 employee to inspect or copy records within the time set forth in
20 subdivision (c) entitles the current or former employee or the Labor
21 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
22 penalty from the employer.

23 (g) The listing by an employer of the name and address of the
24 legal entity that secured the services of the employer in the itemized
25 statement required by subdivision (a) shall not create any liability
26 on the part of that legal entity.

27 (h) An employee may also bring an action for injunctive relief
28 to ensure compliance with this section, and is entitled to an award
29 of costs and reasonable attorney's fees.

30 (i) This section does not apply to the state, to any city, county,
31 city and county, district, or to any other governmental entity, except
32 that if the state or a city, county, city and county, district, or other
33 governmental entity furnishes its employees with a check, draft,
34 or voucher paying the employee's wages, the state or a city, county,
35 city and county, district, or other governmental entity shall use no
36 more than the last four digits of the employee's social security
37 number or shall use an employee identification number other than
38 the social security number on the itemized statement provided with
39 the check, draft, or voucher.

40 SEC. 1.3. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee and, beginning July 1, 2013, if the employer is a temporary services employer as defined in Section 201.3, the rate of pay for each temporary services assignment and the total hours worked for each legal entity. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy records pertaining to their employment, upon reasonable request to the employer. The employer may take reasonable steps to ensure the identity of a current or former employee. If the employer provides copies of the records, the actual

1 cost of reproduction may be charged to the current or former
2 employee.

3 (c) An employer who receives a written or oral request to inspect
4 or copy records pursuant to subdivision (b) pertaining to a current
5 or former employee shall comply with the request as soon as
6 practicable, but no later than 21 calendar days from the date of the
7 request. A violation of this subdivision is an infraction.
8 Impossibility of performance, not caused by or a result of a
9 violation of law, shall be an affirmative defense for an employer
10 in any action alleging a violation of this subdivision. An employer
11 may designate the person to whom a request under this subdivision
12 will be made.

13 (d) This section does not apply to any employer of any person
14 employed by the owner or occupant of a residential dwelling whose
15 duties are incidental to the ownership, maintenance, or use of the
16 dwelling, including the care and supervision of children, or whose
17 duties are personal and not in the course of the trade, business,
18 profession, or occupation of the owner or occupant.

19 (e) (1) An employee suffering injury as a result of a knowing
20 and intentional failure by an employer to comply with subdivision
21 (a) is entitled to recover the greater of all actual damages or fifty
22 dollars (\$50) for the initial pay period in which a violation occurs
23 and one hundred dollars (\$100) per employee for each violation
24 in a subsequent pay period, not to exceed an aggregate penalty of
25 four thousand dollars (\$4,000), and is entitled to an award of costs
26 and reasonable attorney's fees.

27 (2) (A) An employee is deemed to suffer injury for purposes
28 of this subdivision if the employer fails to provide a wage
29 statement.

30 (B) An employee is deemed to suffer injury for purposes of this
31 subdivision if the employer fails to provide accurate and complete
32 information as required by any one or more of items (1) to (9),
33 inclusive, of subdivision (a) and the employee cannot promptly
34 and easily determine from the wage statement alone one or more
35 of the following:

36 (i) The amount of the gross wages or net wages paid to the
37 employee during the pay period or any of the other information
38 required to be provided on the itemized wage statement pursuant
39 to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

1 (ii) Which deductions the employer made from gross wages to
2 determine the net wages paid to the employee during the pay
3 period. Nothing in this subdivision alters the ability of the employer
4 to aggregate deductions consistent with the requirements of item
5 (4) of subdivision (a).

6 (iii) The name and address of the employer and, if the employer
7 is a farm labor contractor, as defined in subdivision (b) of Section
8 1682, the name and address of the legal entity that secured the
9 services of the employer during the pay period.

10 (iv) The name of the employee and only the last four digits of
11 his or her social security number or an employee identification
12 number other than a social security number.

13 (C) For purposes of this paragraph, “promptly and easily
14 determine” means a reasonable person would be able to readily
15 ascertain the information without reference to other documents or
16 information.

17 (3) For purposes of this subdivision, a “knowing and intentional
18 failure” does not include an isolated and unintentional payroll error
19 due to a clerical or inadvertent mistake. In reviewing for
20 compliance with this section, the factfinder may consider as a
21 relevant factor whether the employer, prior to an alleged violation,
22 has adopted and is in compliance with a set of policies, procedures,
23 and practices that fully comply with this section.

24 (f) A failure by an employer to permit a current or former
25 employee to inspect or copy records within the time set forth in
26 subdivision (c) entitles the current or former employee or the Labor
27 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
28 penalty from the employer.

29 (g) The listing by an employer of the name and address of the
30 legal entity that secured the services of the employer in the itemized
31 statement required by subdivision (a) shall not create any liability
32 on the part of that legal entity.

33 (h) An employee may also bring an action for injunctive relief
34 to ensure compliance with this section, and is entitled to an award
35 of costs and reasonable attorney’s fees.

36 (i) This section does not apply to the state, to any city, county,
37 city and county, district, or to any other governmental entity, except
38 that if the state or a city, county, city and county, district, or other
39 governmental entity furnishes its employees with a check, draft,
40 or voucher paying the employee’s wages, the state or a city, county,

1 city and county, district, or other governmental entity shall use no
2 more than the last four digits of the employee's social security
3 number or shall use an employee identification number other than
4 the social security number on the itemized statement provided with
5 the check, draft, or voucher.

6 SEC. 1.5. Section 226 of the Labor Code is amended to read:

7 226. (a) Every employer shall, semimonthly or at the time of
8 each payment of wages, furnish each of his or her employees,
9 either as a detachable part of the check, draft, or voucher paying
10 the employee's wages, or separately when wages are paid by
11 personal check or cash, an accurate itemized statement in writing
12 showing (1) gross wages earned, (2) total hours worked by the
13 employee, except for any employee whose compensation is solely
14 based on a salary and who is exempt from payment of overtime
15 under subdivision (a) of Section 515 or any applicable order of
16 the Industrial Welfare Commission, (3) the number of piece-rate
17 units earned and any applicable piece rate if the employee is paid
18 on a piece-rate basis, (4) all deductions, provided that all deductions
19 made on written orders of the employee may be aggregated and
20 shown as one item, (5) net wages earned, (6) the inclusive dates
21 of the period for which the employee is paid, (7) the name of the
22 employee and the last four digits of his or her social security
23 number or an employee identification number other than a social
24 security number, (8) the name and address of the legal entity that
25 is the employer and, if the employer is a farm labor contractor, as
26 defined in subdivision (b) of Section 1682, the name and address
27 of the legal entity that secured the services of the employer, and
28 (9) all applicable hourly rates in effect during the pay period and
29 the corresponding number of hours worked at each hourly rate by
30 the employee and, beginning July 1, 2013, if the employer is a
31 temporary services employer as defined in Section 201.3, the rate
32 of pay for each temporary services assignment and the total hours
33 worked for each legal entity. The deductions made from payment
34 of wages shall be recorded in ink or other indelible form, properly
35 dated, showing the month, day, and year, and a copy of the
36 statement and the record of the deductions shall be kept on file by
37 the employer for at least three years at the place of employment
38 or at a central location within the State of California. For purposes
39 of this subdivision, "copy" includes a duplicate of the itemized
40 statement provided to an employee or a computer-generated record

1 that accurately shows all of the information required by this
2 subdivision.

3 (b) An employer that is required by this code or any regulation
4 adopted pursuant to this code to keep the information required by
5 subdivision (a) shall afford current and former employees the right
6 to inspect or copy records pertaining to their employment, upon
7 reasonable request to the employer. The employer may take
8 reasonable steps to ensure the identity of a current or former
9 employee. If the employer provides copies of the records, the actual
10 cost of reproduction may be charged to the current or former
11 employee.

12 (c) An employer who receives a written or oral request to inspect
13 or copy records pursuant to subdivision (b) pertaining to a current
14 or former employee shall comply with the request as soon as
15 practicable, but no later than 21 calendar days from the date of the
16 request. A violation of this subdivision is an infraction.
17 Impossibility of performance, not caused by or a result of a
18 violation of law, shall be an affirmative defense for an employer
19 in any action alleging a violation of this subdivision. An employer
20 may designate the person to whom a request under this subdivision
21 will be made.

22 (d) This section does not apply to any employer of any person
23 employed by the owner or occupant of a residential dwelling whose
24 duties are incidental to the ownership, maintenance, or use of the
25 dwelling, including the care and supervision of children, or whose
26 duties are personal and not in the course of the trade, business,
27 profession, or occupation of the owner or occupant.

28 (e) An employee suffering injury as a result of a knowing and
29 intentional failure by an employer to comply with subdivision (a)
30 is entitled to recover the greater of all actual damages or fifty
31 dollars (\$50) for the initial pay period in which a violation occurs
32 and one hundred dollars (\$100) per employee for each violation
33 in a subsequent pay period, not exceeding an aggregate penalty of
34 four thousand dollars (\$4,000), and is entitled to an award of costs
35 and reasonable attorney's fees.

36 (f) A failure by an employer to permit a current or former
37 employee to inspect or copy records within the time set forth in
38 subdivision (c) entitles the current or former employee or the Labor
39 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
40 penalty from the employer.

1 (g) The listing by an employer of the name and address of the
2 legal entity that secured the services of the employer in the itemized
3 statement required by subdivision (a) shall not create any liability
4 on the part of that legal entity.

5 (h) An employee may also bring an action for injunctive relief
6 to ensure compliance with this section, and is entitled to an award
7 of costs and reasonable attorney's fees.

8 (i) This section does not apply to the state, to any city, county,
9 city and county, district, or to any other governmental entity, except
10 that if the state or a city, county, city and county, district, or other
11 governmental entity furnishes its employees with a check, draft,
12 or voucher paying the employee's wages, the state or a city, county,
13 city and county, district, or other governmental entity shall use no
14 more than the last four digits of the employee's social security
15 number or shall use an employee identification number other than
16 the social security number on the itemized statement provided with
17 the check, draft, or voucher.

18 SEC. 1.7. Section 226 of the Labor Code is amended to read:

19 226. (a) Every employer shall, semimonthly or at the time of
20 each payment of wages, furnish each of his or her employees,
21 either as a detachable part of the check, draft, or voucher paying
22 the employee's wages, or separately when wages are paid by
23 personal check or cash, an accurate itemized statement in writing
24 showing (1) gross wages earned, (2) total hours worked by the
25 employee, except for any employee whose compensation is solely
26 based on a salary and who is exempt from payment of overtime
27 under subdivision (a) of Section 515 or any applicable order of
28 the Industrial Welfare Commission, (3) the number of piece-rate
29 units earned and any applicable piece rate if the employee is paid
30 on a piece-rate basis, (4) all deductions, provided that all deductions
31 made on written orders of the employee may be aggregated and
32 shown as one item, (5) net wages earned, (6) the inclusive dates
33 of the period for which the employee is paid, (7) the name of the
34 employee and the last four digits of his or her social security
35 number or an employee identification number other than a social
36 security number, (8) the name and address of the legal entity that
37 is the employer and, if the employer is a farm labor contractor, as
38 defined in subdivision (b) of Section 1682, the name and address
39 of the legal entity that secured the services of the employer, and
40 (9) all applicable hourly rates in effect during the pay period and

1 the corresponding number of hours worked at each hourly rate by
2 the employee and, beginning July 1, 2013, if the employer is a
3 temporary services employer as defined in Section 201.3, the rate
4 of pay for each temporary services assignment and the total hours
5 worked for each legal entity. The deductions made from payment
6 of wages shall be recorded in ink or other indelible form, properly
7 dated, showing the month, day, and year, and a copy of the
8 statement and the record of the deductions shall be kept on file by
9 the employer for at least three years at the place of employment
10 or at a central location within the State of California. For purposes
11 of this subdivision, "copy" includes a duplicate of the itemized
12 statement provided to an employee or a computer-generated record
13 that accurately shows all of the information required by this
14 subdivision.

15 (b) An employer that is required by this code or any regulation
16 adopted pursuant to this code to keep the information required by
17 subdivision (a) shall afford current and former employees the right
18 to inspect or copy records pertaining to their employment, upon
19 reasonable request to the employer. The employer may take
20 reasonable steps to ensure the identity of a current or former
21 employee. If the employer provides copies of the records, the actual
22 cost of reproduction may be charged to the current or former
23 employee.

24 (c) An employer who receives a written or oral request to inspect
25 or copy records pursuant to subdivision (b) pertaining to a current
26 or former employee shall comply with the request as soon as
27 practicable, but no later than 21 calendar days from the date of the
28 request. A violation of this subdivision is an infraction.
29 Impossibility of performance, not caused by or a result of a
30 violation of law, shall be an affirmative defense for an employer
31 in any action alleging a violation of this subdivision. An employer
32 may designate the person to whom a request under this subdivision
33 will be made.

34 (d) This section does not apply to any employer of any person
35 employed by the owner or occupant of a residential dwelling whose
36 duties are incidental to the ownership, maintenance, or use of the
37 dwelling, including the care and supervision of children, or whose
38 duties are personal and not in the course of the trade, business,
39 profession, or occupation of the owner or occupant.

(e) (1) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(2) (A) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement.

(B) An employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide accurate and complete information as required by any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine from the wage statement alone one or more of the following:

(i) The amount of the gross wages or net wages paid to the employee during the pay period or any of the other information required to be provided on the itemized wage statement pursuant to items (2) to (4), inclusive, (6), and (9) of subdivision (a).

(ii) Which deductions the employer made from gross wages to determine the net wages paid to the employee during the pay period. Nothing in this subdivision alters the ability of the employer to aggregate deductions consistent with the requirements of item (4) of subdivision (a).

(iii) The name and address of the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer during the pay period.

(iv) The name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number.

(C) For purposes of this paragraph, "promptly and easily determine" means a reasonable person would be able to readily ascertain the information without reference to other documents or information.

(3) For purposes of this subdivision, a "knowing and intentional failure" does not include an isolated and unintentional payroll error due to a clerical or inadvertent mistake. In reviewing for

1 compliance with this section, the factfinder may consider as a
2 relevant factor whether the employer, prior to an alleged violation,
3 has adopted and is in compliance with a set of policies, procedures,
4 and practices that fully comply with this section.

5 (f) A failure by an employer to permit a current or former
6 employee to inspect or copy records within the time set forth in
7 subdivision (c) entitles the current or former employee or the Labor
8 Commissioner to recover a seven-hundred-fifty-dollar (\$750)
9 penalty from the employer.

10 (g) The listing by an employer of the name and address of the
11 legal entity that secured the services of the employer in the itemized
12 statement required by subdivision (a) shall not create any liability
13 on the part of that legal entity.

14 (h) An employee may also bring an action for injunctive relief
15 to ensure compliance with this section, and is entitled to an award
16 of costs and reasonable attorney's fees.

17 (i) This section does not apply to the state, to any city, county,
18 city and county, district, or to any other governmental entity, except
19 that if the state or a city, county, city and county, district, or other
20 governmental entity furnishes its employees with a check, draft,
21 or voucher paying the employee's wages, the state or a city, county,
22 city and county, district, or other governmental entity shall use no
23 more than the last four digits of the employee's social security
24 number or shall use an employee identification number other than
25 the social security number on the itemized statement provided with
26 the check, draft, or voucher.

27 *SEC. 2. Section 226.1 is added to the Labor Code, to read:*

28 *226.1. The requirements of item (9) of subdivision (a) of Section*
29 *226, with respect to a temporary services employer, do not apply*
30 *to a security services company that is licensed by the Department*
31 *of Consumer Affairs and that solely provides security services.*

32 ~~SEC. 2.~~

33 *SEC. 3. Section 2810.5 of the Labor Code is amended to read:*

34 2810.5. (a) (1) At the time of hiring, an employer shall provide
35 to each employee a written notice, in the language the employer
36 normally uses to communicate employment-related information
37 to the employee, containing the following information:

38 (A) The rate or rates of pay and basis thereof, whether paid by
39 the hour, shift, day, week, salary, piece, commission, or otherwise,
40 including any rates for overtime, as applicable.

1 (B) Allowances, if any, claimed as part of the minimum wage,
2 including meal or lodging allowances.

3 (C) The regular payday designated by the employer in
4 accordance with the requirements of this code.

5 (D) The name of the employer, including any “doing business
6 as” names used by the employer.

7 (E) The physical address of the employer’s main office or
8 principal place of business, and a mailing address, if different.

9 (F) The telephone number of the employer.

10 (G) The name, address, and telephone number of the employer’s
11 workers’ compensation insurance carrier.

12 (H) Any other information the Labor Commissioner deems
13 material and necessary.

14 (2) The Labor Commissioner shall prepare a template that
15 complies with the requirements of paragraph (1). The template
16 shall be made available to employers in such manner as determined
17 by the Labor Commissioner.

18 (3) If the employer is a temporary services employer, staffing
19 agency, or professional employer organization, the notice described
20 in paragraph (1) must also include the name, the physical address
21 of the main office, the mailing address if different from the physical
22 address of the main office, and the telephone number of the legal
23 entity for whom the employee will perform work, and any other
24 information the Labor Commissioner deems material and
25 necessary.

26 (b) An employer shall notify his or her employees in writing of
27 any changes to the information set forth in the notice within seven
28 calendar days after the time of the changes, unless one of the
29 following applies:

30 (1) All changes are reflected on a timely wage statement
31 furnished in accordance with Section 226.

32 (2) Notice of all changes is provided in another writing required
33 by law within seven days of the changes.

34 (c) For purposes of this section, “employee” does not include
35 any of the following:

36 (1) An employee directly employed by the state or any political
37 subdivision thereof, including any city, county, city and county,
38 or special district.

1 (2) An employee who is exempt from the payment of overtime
2 wages by statute or the wage orders of the Industrial Welfare
3 Commission.

4 (3) An employee who is covered by a valid collective bargaining
5 agreement if the agreement expressly provides for the wages, hours
6 of work, and working conditions of the employee, and if the
7 agreement provides premium wage rates for all overtime hours
8 worked and a regular hourly rate of pay for those employees of
9 not less than 30 percent more than the state minimum wage.

10 ~~SEC. 3.~~

11 *SEC. 4.* No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 ~~SEC. 4.~~

21 *SEC. 5.* (a) Section 1.3 of this bill incorporates amendments
22 to Section 226 of the Labor Code proposed by both this bill and
23 SB 1255. It shall only become operative if (1) both bills are enacted
24 and become effective on or before January 1, 2013, (2) each bill
25 amends Section 226 of the Labor Code, (3) AB 2674 is not enacted
26 or as enacted does not amend that section, and (4) this bill is
27 enacted after SB 1255, in which case Sections 1, 1.5 and 1.7 of
28 this bill shall not become operative.

29 (b) Section 1.5 of this bill incorporates amendments to Section
30 226 of the Labor Code proposed by both this bill and AB 2674. It
31 shall only become operative if (1) both bills are enacted and
32 become effective on or before January 1, 2013, (2) each bill amends
33 Section 226 of the Labor Code, (3) SB 1255 is not enacted or as
34 enacted does not amend that section, and (4) this bill is enacted
35 after AB 2674 in which case Sections 1, 1.3 and 1.7 of this bill
36 shall not become operative.

37 (c) Section 1.7 of this bill incorporates amendments to Section
38 226 of the Labor Code proposed by this bill, SB 1255, and AB
39 2674. It shall only become operative if (1) all three bills are enacted
40 and become effective on or before January 1, 2013, (2) all three

- 1 bills amend Section 226 of the Labor Code, and (3) this bill is
- 2 enacted after SB 1255 and AB 2674, in which case Sections 1, 1.3
- 3 and 1.5 of this bill shall not become operative.

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